

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CESAR BARAY,

Plaintiff,

vs.

CIV. NO. 19-0343 KBM

ANDREW SAUL,
Commissioner of Social
Security,

Defendant.

ORDER OF REMAND

Defendant, the Commissioner of Social Security (“Commissioner”), by and through his counsel, has filed an unopposed motion with this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment with an order of reversal with remand of the case for further administrative proceedings. *Doc. 24.* After reviewing Plaintiff’s case, the Commissioner submits that remand is warranted. *Id.* Plaintiff does not oppose the requested relief. *Id.*

To remand under sentence four of 42 U.S.C. § 405(g), however, the Court must review the record and determine whether remand is in fact warranted. *Nguyen v. Shalala*, 43 F.3d 1400, 1403 (10th Cir. 1994). If so, reversal is appropriate. *Id.*

Having reviewed the record in light of the issues Plaintiff raised in his Motion to Remand (*Doc. 20*), the Court finds remand is indeed warranted, as the Appeals Council erred in determining that additional medical evidence submitted by Plaintiff did not constitute chronologically pertinent evidence. Therefore, pursuant to the power of this

Court to enter a judgment reversing the Commissioner's decision with remand under sentence four of 42 U.S.C. § 405(g), this Court hereby reverses the Commissioner's decision and remands this matter to the Commissioner. See *Shalala v. Schaefer*, 509 U.S. 292 (1993). Upon remand, the agency will reconsider Plaintiff's claim.

Dated this 24th day of March, 2020.



HONORABLE KAREN B. MOLZEN
UNITED STATES MAGISTRATE JUDGE
Proceeding by Consent